

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

CONTINENTAL CASUALTY COMPANY, §

Plaintiff,

vs.

**ALABAMA EMERGENCY ROOM
ADMINISTRATIVE SERVICES, P.C.,**

Defendant.

CIVIL ACTION NO.:

2:07-CV-221-WHA

**NOTICE OF PARTIES' AGREEMENT REGARDING
OUTSTANDING DISCOVERY ISSUES**

COMES NOW Plaintiff Continental Casualty Company and notifies the Court of the agreement reached by the parties regarding the outstanding discovery issues in this matter.

Pursuant to this Court's February 27, 2008 Order, counsel for Plaintiff and counsel for Defendant conferred in an attempt to resolve the issues regarding the discovery disputes outlined in Continental Casualty's Motion to Compel [Doc. 22] and Defendant's response thereto. [Doc. 24]. During that conference, the parties reached agreements regarding each of the discovery issues that were outlined in the previously-filed Motion and response. A copy of the correspondence confirming the parties' agreements regarding each discovery issue is attached hereto.

Respectfully submitted,

/s/ Candace L. Hudson

Brenen G. Ely (0366-E54B)

Joel S. Isenberg (8855-N76J)

Candace L. Hudson (8314-N66H)

Attorneys for Plaintiff Continental Casualty Company

OF COUNSEL:

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600 Beacon Parkway West, Suite 104
Birmingham, Alabama 35209
Telephone: (205) 313-1200
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CERTIFICATE OF SERVICE

I do hereby certify that a true and accurate copy of the foregoing has been on all parties of record by:

- Hand Delivery
 U.S. Mail
 Overnight Delivery
 Facsimile
 E-File

on this the 10th day of March, 2008.

/s/ Candace L. Hudson

OF COUNSEL

cc: Michael Cohan
HILL, HILL, CARTER, FRANCO,
COLE & BLACK, P.C.
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Candace L. Hudson

March 10, 2008

VIA FACSIMILE & U.S. MAIL

Michael J. Cohan
HILL, HILL, CARTER, FRANCO,
COLE & BLACK, P.C.
Post Office Box 116
Montgomery, AL 36101

Re: *Continental Casualty Company v. Alabama Emergency Room Administrative Services, P.C.*

Dear Mike:

This will confirm the agreements we reached during our telephone conference on March 6, 2008, regarding the outstanding discovery issues in the above-referenced matter.

With respect to Continental Casualty's Interrogatory 15, AERAS agrees to provide a written answer to this interrogatory.

Continental Casualty agreed to limit and restate Interrogatory 17 to request that AERAS identify only those lawsuits, bankruptcies, claims, and/or disputes regarding workers' compensation insurance premiums to which AERAS has been a party. AERAS agrees to provide a written response to Interrogatory 17 as limited and clarified in our telephone conference.

Continental Casualty seeks no further answer with respect to Interrogatory 23.

With respect to Interrogatories 29 and 30, AERAS agrees to provide a full and complete written response.

AERAS further agrees to provide full, written responses to Interrogatories 33, 34, 35, and 36.

With respect to Continental Casualty's Requests for Production 17 and 19, you represented that AERAS has produced those items through the documents previously produced. Accordingly, no further documents exist. However, in Response to Request for Production 20, you advised that

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AERAS has not produced its "general ledger," and that you are unsure whether one exists. After reviewing Tom Dyer's deposition testimony regarding the documents he reviewed during the audit, you have agreed to speak with AERAS and, to the extent that a "detailed general ledger" exists, AERAS agrees to produce same.

With respect to Request for Production 24, Continental Casualty agrees to limit its request to production of those federal and state income tax filings for AERAS for the years of 2005 and 2006. AERAS agrees to produce the documents as requested in the newly-limited Request for Production 24.

With respect to Request for Productions 29 and 30, you advised that it was your understanding that no "personnel files" exist for the physicians at AERAS. However, based on the deposition testimony of Dr. John Moorehouse and/or Mark Platt, it appears that personnel files may, in fact, exist. Based on the statements at the depositions, you have agreed to confirm whether the personnel files sought in Request for Production 29 do, in fact, exist. If so, AERAS agrees to produce the personnel files sought in Request for Production 29 as well as any "applications" or curriculum vitae that may be contained in AERAS's records for the AERAS physicians.

Finally, Continental Casualty withdraws Request for Production 32, and will no longer pursue production of the items requested therein.

Please review this letter closely, and let me know if I have misunderstood any of our discussion regarding the outstanding discovery. As the deadline for submission of summary judgment motions is approaching, **please provide us with AERAS's supplemental answers and responses no later than March 24, 2008.**

We appreciate your continued assistance and cooperation in resolving these outstanding discovery issues. Should you have any questions or wish to discuss these matters further, please do not hesitate to contact Brenen or me.

Sincerely,



Candace L. Hudson

CLH/km

cc: Hon. Susan Russ Walker (via attachment to Court-filed document)